

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

BRENDA L. HILL MYRICK,
ADMINISTRATOR OF THE ESTATE OF
GREGORY HILL ALSO KNOWN AS
GREGORY LEE HILL, DECEASED,

Plaintiff,

v.

Civil Action No. 3:16cv952

NAPHCARE, INC.,
KHAIRUL EMRAN, MD,
DONNA PIERCE, RN,
ANGELA PATTERSON, RN,
MARCELLA PASCAL, RN, BSN,
BEVERLY DANIELS, LPN,
KELSEY GREEN,
NAPHCARE JOHN DOE DEFENDANTS 1-5,
C. T. WOODY, JR., SHERIFF,
CAPTAIN JOHNSON,
DEPUTY McCLOUD,
SERGEANT O'RARA ALSO KNOWN AS
SERGEANT O'ROARK,
LT. FELIX,
DEPUTY EVERETT,
DEPUTY JOHN DOE DEFENDANTS 1- 5,

Defendants.

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS
O'ROARK AND FELIX**

COME NOW Defendants, Mason O'Roark and Sydney Felix, by counsel, and for their Answer and Affirmative Defenses to Plaintiff's Complaint state as follows:

ANSWER

1. Denied. The EMS records speak for themselves.
2. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

3. Denied.

4. Denied.

5. Denied. Defendants deny the allegations of this paragraph as the referenced records speak for themselves. Defendants deny the remaining allegations as they are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

6. Denied. Defendants deny the allegations of this paragraph as the referenced records speak for themselves. Defendants deny the remaining allegations as they are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

7. Denied. Sheriff Woody responded as allowed under Virginia law.

8. Denied as a conclusion of law.

9. Denied as a conclusion of law.

10. Denied as a conclusion of law.

11. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

12. Admitted in part and denied in part. Defendants admit that defendant Naphcare had a contract for the procurement of medical care at the jail. Defendants deny the remaining allegations as the contract speaks for itself.

13. Admitted.

14. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

15. Admitted in part; denied in part. It is admitted that Sheriff Woody is a constitutional officer. Defendants deny the remaining allegations.

16. Denied as a conclusion of law.

17. Denied as a conclusion of law.

18. Denied as a conclusion of law.

19. Admitted.

20. Admitted in part and denied in part. Defendants admit only that Mr. Hill was transferred to the jail. The remaining allegations are denied.

21. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

22. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

23. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

24. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

25. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

26. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

27. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

28. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

29. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

30. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

31. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

32. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

33. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

34. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

35. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

36. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

37. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

38. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

45. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

46. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

47. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

48. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

49. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

50. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

51. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

52. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

53. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

54. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

55. Denied. Defendants are without sufficient knowledge or information upon which to form a belief as to the truth of the allegations of this paragraph and therefore deny same.

56. Denied.

57. Denied.

58. Denied as a conclusion of law.

59. Denied as a conclusion of law.

60. Admitted in part; denied in part. Defendants admit the allegations of this paragraph only to the extent they are consistent with Virginia law.

61. Admitted in part; denied in part. Defendants admit the allegations of this paragraph only to the extent they are consistent with Virginia law.

62. Admitted.

63. Denied as a conclusion of law.

64. Admitted.

65. Denied.

66. Admitted.

67. No answer is required as the allegations pertain to other defendant(s). Therefore it is denied.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Denied.

79. Denied.

80. Denied.

81. Defendants incorporate by reference their responses to paragraphs 1 – 80 as if set forth at length.

82. Denied as a conclusion of law.

83. Denied.

84. Denied.

85. Denied.

86. Denied.

87. (a)-(b) Denied.

88. (a)-(b) Denied.

89. Defendants incorporate by reference their responses to paragraphs 1 – 88 as if set forth at length.

90. No answer is required as the allegations pertain to other defendant(s); therefore it is denied.

91. No answer is required as the allegations pertain to other defendant(s); therefore it is denied.

92. No answer is required as the allegations pertain to other defendant(s); therefore it is denied.

93. No answer is required as the allegations pertain to other defendant(s); therefore it is denied.

94. No answer is required as the allegations pertain to other defendant(s); therefore it is denied.

95. No answer is required as the allegations pertain to other defendant(s); therefore it is denied.

96. No answer is required as the allegations pertain to other defendant(s); therefore it is denied.

97. No answer is required as the allegations pertain to other defendant(s); therefore it is denied.

98. No answer is required as the allegations pertain to other defendant(s).

99. Defendants incorporate by reference their responses to paragraphs 1 – 98 as if set forth at length.

100. Denied as a conclusion of law.

101. Denied as a conclusion of law.

102. Denied.

103. Denied.

104. Denied.

105. Denied as a conclusion of law.

106. Denied.

107. Denied.

108. Denied.

109. Denied.

110. Defendants incorporate by reference their responses to paragraphs 1 – 109 as if set forth at length.

111. Denied as a conclusion of law.

112. Denied as a conclusion of law.

113. Denied as a conclusion of law.

114. Denied.

115. Denied.

116. Denied.

117. Denied.

118. Denied.

119. Denied.

120. Denied.

121. Denied.

122. Denied.

123. Denied.

124. Defendants incorporate by reference their responses to paragraphs 1 – 123 as if set forth at length.

125. Denied as a conclusion of law.
126. Denied.
127. Denied.
128. Denied.
129. Denied.
130. Denied.
131. Denied.
132. Denied.
133. Denied.
134. Denied.
135. Denied.
136. Defendants incorporate by reference their responses to paragraphs 1 – 135 as if set forth at length.
137. Denied.
138. Denied.
139. Denied.
140. Denied.
141. Denied.
142. Defendants incorporate by reference their responses to paragraphs 1 – 141 as if set forth at length.
143. Denied.
144. Denied.
145. Denied.

146. Denied.

147. Denied.

148. Denied.

AFFIRMATIVE DEFENSES

1. Defendants deny that they breached any of plaintiff's constitutional, common law or statutory rights, deny any wrongdoing, intentional or tortious behavior, and deny that plaintiff is entitled to any relief.

2. Counts III, IV, V, VI, and VII brought pursuant to § 1983 are barred by the Eleventh Amendment to the extent they are or may be construed to be against defendants in their official capacity.

3. Counts III, IV, V, VI, and VII brought pursuant to §1983 against defendants in their individual capacity are barred by the doctrine of qualified good faith immunity. Plaintiff has not alleged facts supporting claims that these defendants violated her decedent's clearly established constitutional rights.

4. Counts III, IV, V, VI, and VII brought pursuant to §1983 against defendants in their individual capacity are or may be barred by the *Vinnedge* doctrine absent defendants' personal involvement in the incidents alleged.

5. Counts III, IV, V, VI, and VII brought pursuant to §1983 are barred for failure to state a claim upon which relief may be granted.

6. Count I brought pursuant to Virginia law is barred for failure to state a claim upon which relief may be granted.

7. Plaintiff fails to state a claim upon which relief may be granted in Count VII for supervisory liability, as plaintiff cannot establish that defendants knew of or disregarded a risk of harm or exhibited deliberate indifference, causing injury to her decedent.

8. Any harm to plaintiff's decedent was the result of an intervening and/or superseding cause of medical personnel.

9. Defendants deny that they are indebted to plaintiff for any reason or in any amount.

10. Defendants did not act with malice or recklessness toward plaintiff, but rather acted in good faith at all times, thereby barring any claims for compensatory or punitive damages.

11. Plaintiff fails to allege sufficient facts supporting a claim for punitive damages.

12. Any harm to plaintiff's decedent or alleged damages resulted from acts or omissions of third parties, as defendants by law may rely on the judgment of medical personnel.

13. Defendants reserve the right to add such other and further defenses as may be developed in the course of discovery in this action.

14. Any paragraph of the complaint not admitted or denied is hereby denied.

15. A jury trial is demanded in this matter.

WHEREFORE, having fully answered and set forth their affirmative defenses, Defendants Mason O'Roark and Sydney Felix move for dismissal of this action with prejudice, plus costs.

MASON O'ROARK
SYDNEY FELIX

By: _____/s/_____
Of Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February, 2017 I will electronically file the foregoing **ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS O'ROARK AND FELIX** with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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